

Service Date: May 9, 2000

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER OF the Application of	)	UTILITY DIVISION
US WEST Communications, Inc. to	)	
Introduce "Tenant Solutions" for	)	DOCKET NO. N99.10.226
Commercial Properties and	)	ORDER NO. 6246
Multi-Tenant Residential Properties	)	

**ORDER ON RECONSIDERATION**

**INTRODUCTION AND BACKGROUND**

1. On October 1, 1999, US WEST Communications (hereafter "US West") filed tariff transmittal 99-55 introducing a marketing initiative titled "Tenant Solutions". The initiative targets commercial buildings and multi-tenant residential properties by waiving non-recurring charges and providing discounts off telecommunications rates under contract. In order to receive these benefits, the owner, manger and/or tenant of these buildings must designate US West as their 'preferred vendor' or 'preferred carrier'. According to US West, the goal is to create opportunities for building developers and to allow building owners and property managers to increase the value of their properties by making US West the preferred carrier or vender to their tenants.

2. On November 5, 1999, the Montana Public Service Commission (Commission) noticed the filing and invited comments from interested parties. The Montana Consumer Counsel (MCC), the only party to seek intervention, was inactive and later withdrew as an intervenor.

**DISCUSSION**

3. In its January 31, 2000 Notice of Commission Action, the Commission approved the tariff; however, because of possible anti-competitive concerns regarding customer access to alternative telecommunications providers, the Commission attached six pro-competitive conditions. Specifically, the Commission felt "Tenant Solutions" as proposed might preclude a

customer from choosing an alternative telecommunications carrier if US West was presented as the 'preferred carrier' to the tenant. On March 6, 2000, US West filed a motion for reconsideration addressing two of the six conditions imposed.

4. As part of the proposal, US West intends to distribute informative and promotional materials to prospective tenants on Tenant Solutions. The first condition required US West to "conspicuously print on all materials submitted to the tenants that they have the option to choose another telecommunications [provider] and are not obligated to choose US WEST." The second condition required US West to "submit [all literature distributed to affected tenants] first to the Commission at least 30 days prior to the effective date of any contract under this program. . . ."

5. US West contends these conditions are unduly burdensome because they would require a "Montana-specific" print run where Montana materials would have to be modified and re-printed rather than using regional materials already developed and printed. As an alternative, US West proposes to include the following language on all materials distributed to customers prior to any contractual agreement:

Your landlord will not prevent you from selecting another service provider if you do not want service from US West.

This language reflects the terms and conditions language in the Tenant Solutions tariff filing. Regarding the condition that US West submit to the Commission all materials used in marketing Tenant Solutions prior to distribution, US West objects that this condition is impractical because it would require pre-approval prior to materials being developed thus possibly necessitating Montana-only considerations. However, US West has submitted all materials to be used in the Tenant Solutions proposal.

### DECISION

6. The Commission finds US West's motion for reconsideration of the conditions described above is reasonable. The Commission directs US to affix to all materials distributed to prospective Tenant Solution customers the language quoted at paragraph 5, above. The requirement that US West submit in advance to the Commission written materials directed at tenants is rescinded as moot.

### **CONCLUSIONS OF LAW**

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. U S WEST is a public utility offering regulated telecommunications services in the State of Montana. Section 69-3-101, MCA.

2. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.

3. The Montana Public Service Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.

4. Adequate public notice and an opportunity to be heard has been provided to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

### **ORDER**

THEREFORE, based on the foregoing, IT IS ORDERED that US West's March 6, 2000 motion for reconsideration is granted as described herein;

DONE AND DATED this 24th day of April, 2000, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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DAVE FISHER, Chairman

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NANCY MCCAFFREE, Vice Chair

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BOB ANDERSON, Commissioner

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GARY FELAND, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)